

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-second Legislature - First Regular Session

February 18, 2015

Bill Number	Short Title	Committee	Date	Action
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**Committee on Health**

**Chairman:** Heather Carter, LD15

**Vice Chairman:** Regina Cobb, LD5

**Analyst:** Ingrid Garvey

**Intern:** Brennan Rohs

<a href="#"><u>HB 2645</u></a>	laboratory testing without physician order			
SPONSOR:	CARTER	HEALTH	2/17	DPA (6-0-0-0-0)

**Committee on Ways and Means**

**Chairman:** Darin Mitchell, LD13

**Vice Chairman:** Anthony Kern, LD20

**Analyst:** Ryan Sullivan

**Intern:** Matthew VanBenschoten

<a href="#"><u>HB 2590</u></a>	TPT reform; contractors.			
SPONSOR:	FANN, LD1	HOUSE WM	2/16	DPA (9-0-0-0-0)



# HOUSE OF REPRESENTATIVES

HB 2645

laboratory testing without physician order

Sponsor: Representative Carter

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**DPA** Committee on Health

**X** Caucus and COW

House Engrossed

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## OVERVIEW

HB 2645 allows a person to obtain any laboratory test without a physician's order.

## HISTORY

Congress passed the Clinical Laboratory Improvement Amendments (CLIA) in 1988 establishing quality standards for all laboratory testing to ensure the accuracy, reliability and timeliness of patient test results regardless of where the test was performed.

The Clinical Laboratory Program at Arizona's Department of Health Services (ADHS) regulates all laboratory testing (except research) performed on humans, under CLIA. The program is charged with certifying and regulating laboratories that perform clinical laboratory tests for the diagnosis, prognosis, treatment of disease and health screening services of all certified clinical laboratories in Arizona. They also investigate complaints and insure compliance with state and federal laws to assure that high quality standards are maintained.

Within ADHS, is the Advisory Committee on Clinical Laboratories (Committee). The Committee consists of seven members who include: six doctors of medicine or osteopathy that are appointed by the director of ADHS (Director); and the Director or the Director's designee. The Committee is tasked with selecting a chairperson and vice-chairperson, conducting regular meetings, advising ADHS on the use and renewal of standing orders and advising ADHS in the development of a list of direct access tests that may be obtained without a physician's referral. ADHS is required to make the list available to the public.

Current law defines a direct access test as a test that may be obtained without a physician referral including tests that have been granted waived status pursuant to federal law (A.R.S. § 36-466).

## PROVISIONS

1. Removes provisions of law relating to *direct access tests*.
2. Adds a new section of law that allows a person to obtain any laboratory test without a physician's request or written authorization.
3. Requires a person who receives a laboratory test that is not at the request of a physician or conducted by a person that is a physician to receive the results of the laboratory test directly.
4. Requires a lab report not ordered by a physician to contain bold type specifying that it is the responsibility of the patient to coordinate with a physician for consultation and interpretation of the results.
5. Specifies that a physician is not liable for the failure to review or act on a laboratory test result, if the physician did not request or authorize a laboratory test.
6. States that a laboratory test is not required to be covered by private health insurance or the Arizona Health Care Cost Containment System.

7. Exempts ADHS from rule-making requirements for one year in regard to adopting rules relating to the changes in direct access laboratory testing.
8. Defines *physician*.
9. Makes conforming changes.

#### **Amendments**

##### **Committee on Health**

1. Replaces the term *physician* with *health care provider*.
2. Modifies the definition of *health care provider*.



# HOUSE OF REPRESENTATIVES

## HB 2590

TPT reform; contractors.

Sponsors: Representatives Fann, Coleman: Campbell, et al.

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**DPA** Committee on Ways and Means

**X** Caucus and COW

House Engrossed

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### OVERVIEW

HB 2590 alters statute regarding transaction privilege tax (TPT) pertaining to contractors.

### HISTORY

TPT is imposed on a vendor for the privilege of conducting business in Arizona. Under this tax, the seller is responsible for remitting to the state the entire amount of tax due based on the gross proceeds or gross income of the business. While the tax is commonly passed on to the consumer at the point of sale, it is ultimately the seller's responsibility to remit the tax. Business activities subject to TPT include, but are not limited to: retail, restaurants and bars, hotel/motel, commercial leasing, advertising, amusements, personal property rentals, real property rentals, construction contracting, owner/builders, manufactured building, mining, timbering, transportation, printing, publishing, utilities, communications, air/railroad, and private cars/pipelines. The current Arizona TPT rate is 5.6%. The Arizona Department of Revenue (DOR) collects TPT and administers distribution to the state General Fund (GF) and counties, cities and towns.

Pursuant to Arizona Revised Statutes § 42-5075 the prime contracting classification is comprised of business engaged in prime contracting and the dealership of manufactured buildings. The TPT base for prime contracting is 65% of the gross sale proceeds or gross income derived from the business. Subsection O, as added by Laws 2014, Chapter 263, Section 13, provides that prime contractors are not subject to tax from the gross sale proceeds or gross income resulting from contracts for the maintenance, repair, replacement or alteration (MRRA) of real property if the contract does not include modification activity.

### PROVISIONS

#### *Building Permits*

10. Restricts a city, town and board of supervisors from requiring an applicant for a building permit to hold a TPT license.
11. Permits a city or town to require a person that has been issued a building permit, and that does not hold a business license from the city or town, to apply for a business license within 30 days after issuing the building permit.

#### *Contractor Licensure Qualifications*

12. Eliminates the requirements for an applicant to possess a TPT license and to submit the license number to the Registrar of Contractors to obtain or renew a contractor's license.

#### *Liability for Retail TPT*

13. States that a contractor or subcontractor working under the control of a prime contractor, that purchases tangible personal property exempt from TPT or use tax that incorporates such property into a MRRA project, is liable for an amount equal to any tax that the seller would have been required to pay.
14. Outlines the process by which a contractor or subcontractor working under the control of a prime contractor pays liable tax if tangible personal property is purchased exempt from TPT or use tax that is incorporated into a MRRA.
15. States that if a person purchases tangible personal property exempt from TPT or use tax with a canceled TPT license, that person is liable to pay tax on that property if used, consumed, sold or discarded.
16. Outlines the method of payment for a person who purchases tangible personal property exempt from TPT or use tax with a canceled TPT licensee.
17. States that if a person fails to report or pay taxes under this section, that person is liable for interest and penalties.
18. Entitles a person to an offset for taxes paid on tangible personal property believed to be for a MRRA project if a final determination finds the project was prime contracting.

#### *Retail Classification*

19. Exempts tangible personal property from retail TPT and use tax that will be utilized in a MRRA project for:
  - a. Qualifying hospitals.
  - b. Qualifying health care organizations.
  - c. Qualifying health centers.
  - d. Nonprofit charitable organizations.
  - e. Qualifying health science educational institutions.
20. Exempts from retail TPT and use tax tangible personal property that is sold to a person representing or working on behalf of another person under an exemption certificate.
21. Exempts from retail TPT and use tax the sale of tangible personal property utilized in a MRRA project that is located within the exterior boundaries of an Indian reservation for which the owner of the project is an Indian tribe or affiliated Indian.
22. Adds a person representing or working on behalf of a prime contractor to the TPT telecommunications exemption from MRRA.
23. Adds a person representing or working on behalf of a prime contractor to the TPT machinery and equipment for production of livestock, livestock products or agriculture, horticultural, viticultural or floricultural crops exemption from MRRA.

#### *Change Orders*

24. Requires a change order that directly relates to the scope of work of the original contract to be treated as part of the original contract. The contract amount must include any amount attributable to a change order that directly relates to the scope of work of the original contract.
25. Requires a change order that does not directly relate to the scope of work of the original contract to be treated as a new contract.
26. Stipulates that the treatment of change orders does not alter or affect the treatment of change orders in any other context, including with respect to the application of changes in the rate of tax.

#### *Prime Contracting Classification*

27. Replaces *construction, alteration, repair, improvement, movement, wrecking or, demolition or addition to or subtraction* with *modification* in various A.R.S. subsections regarding prime contracting.
28. Specifies, with the exception of special taxing districts, that surface, subsurface and vertical improvement to land contracts are subject to:

- a. Specific highway and public building statutes.
  - b. The prime contracting classification of TPT.
29. Defines *alteration* as an activity or action that causes a direct physical change to existing property and that meets one of the following requirements:
- a. Is a residential property with a contract amount less than 25% of the most recent full cash value assessment of the property.
  - b. Is a nonresidential property with a contract that meets all of the following requirements:
    - I. A contract value of less than \$750,000.
    - II. The scope of the work directly relates to no more than 40% of the square footage of the existing property.
    - III. The scope of the work expands the square footage no more than 10% of the existing property.
30. Prohibits project elements from being artificially separated from a contract to cause a project to qualify as an alteration. DOR has the burden of proof that project elements have artificially separated from a contract.
31. Specifies that work under a contract qualifies as an alteration if the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration, and on completion, the project exceeded the applicable threshold by no more than 25 %.
32. Specifies that *alteration* does not include *maintenance, repair or replacement*.
33. Clarifies the definition of *modification* means construction, grading and leveling ground, wreckage or demolition, that does not include:
- a. Improvement or movement.
  - b. Any MRRA project.
  - c. Any wreckage or demolition of existing property, or any other activity that is a necessary component of a MRRA project.
  - d. Any mobilization or demobilization related to a MRRA project, such as erection or removal or temporary facilities to be used by persons working on the project.
34. Clarifies the definition of *modify* means to make a modification or cause a modification to be and not construct, improve, move, wreck or demolish.
35. Defines *owners* as the person that holds the title to the real property or improvements to real property that is subject to the work, as well as an agent of the title holder or any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager.
36. Defines *replacement* as the removal of one component or system of existing property or tangible personal property installed in existing property, and the installation of a new component or system or new tangible personal property that provides the same or upgraded functionality, regardless of the contract amount for the removal and installation.

#### *Existing Inventory*

37. Permits a person that cancels their TPT license on or before the last day of the first month that occurs at least 60 days after the effective date to estimate the value of inventory purchased tax exempt, and provides the following procedures for the payment of taxes:
- a. If the estimation is a value of \$10,000 or less, the person is not liable for any tax.
  - b. If the estimation is a value of more than \$10,000, the person is only liable for the tax above \$10,000 and is required to pay the excess value by one of the following methods:
    - i. A single payment with the tax based on the person's principle place of business.
    - ii. In 12 equal monthly installments with the tax based on the person's principle place of business.
    - iii. When the materials are incorporated into a MRRA project, tax is due based on the purchase price of the materials and if the materials are sold or disposed, the tax is based on the revenues received.

#### *Hold Harmless*

38. Specifies the following for any contracts that are bid or entered into or any bidding obligation executed on or before the prescribed deadline:
- a. A person may treat the contract as taxable under the prime contracting classification.
  - b. A person must be held harmless from any additional tax, penalty and interest if DOR determines by audit that the person's good faith treatment of the contract was either subject to or excluded from TPT under the prime contracting classification, or was incorrect.

*Miscellaneous*

39. Alters language requiring DOR to establish an exemption certificate to permit a person not subject to prime contracting to be employed by a contractor that is subject to prime contracting.
40. Adds to the definition of *tangible personal property*.
41. Defines numerous terms.
42. Makes technical and conforming changes.
43. Exempts DOR from rulemaking for the purpose of implementing this Act.
44. Contains a legislative intent clause.
45. Applies retroactively to January 1, 2015.
46. Contains an emergency clause.

**AMENDMENTS**

**Committee on Ways and Means**

1. Makes technical corrections.